

1                   IN THE UNITED STATES DISTRICT COURT FOR THE  
2                   NORTHERN DISTRICT OF OKLAHOMA  
3

4       W. A. DREW EDMONDSON, in his )  
5       capacity as ATTORNEY GENERAL )  
6       OF THE STATE OF OKLAHOMA and )  
7       OKLAHOMA SECRETARY OF THE )  
8       ENVIRONMENT C. MILES TOLBERT,) )  
9       in his capacity as the )  
10       TRUSTEE FOR NATURAL RESOURCES) )  
11       FOR THE STATE OF OKLAHOMA, )

12                                   Plaintiff, )

13       vs. )

14       TYSON FOODS, INC., et al, )

15                                   Defendants. )

16       - - - - -

17                   VOLUME I VIDEOTAPED DEPOSITION OF TODD KING,  
18       produced as a witness on behalf of the Defendants in  
19       the above styled and numbered cause, taken on the 23rd  
20       day of July, 2008, in the City of Tulsa, County of  
21       Tulsa, State of Oklahoma, before me, Marlene Percefull,  
22       a Certified Shorthand Reporter, duly certified under  
23       and by virtue of the laws of the State of Oklahoma.  
24  
25

TODD KING, VOL I, 7-22-08

1 (Whereupon, the video deposition began at  
2 9:02 a.m.)

3 THE VIDEOGRAPHER: We're here today for  
4 the deposition of Todd King. Today is July 22nd,  
5 2008. The time is 9:06 a.m. Would counsel please 9:03AM  
6 identify themselves for the record.

7 MR. BLAKEMORE: Bob Blakemore for the  
8 State of Oklahoma.

9 MS. BURCH: Kelly Burch, State of  
10 Oklahoma. 9:05AM

11 MR. TUCKER: Colin Tucker for Cargill  
12 Turkey Production and Cargill, Inc.

13 MR. McDANIEL: Scott McDaniel representing  
14 Peterson Farms, Inc.

15 MR. THOMPSON: Paul Thompson, Jr., 9:05AM  
16 representing George's.

17 MR. BOND: Michael Bond representing Tyson  
18 Foods, Tyson Chicken, Tyson Poultry and  
19 Cobb-Vantress.

20 MR. ELROD: John Elrod representing 9:05AM  
21 Simmons.

22 THE VIDEOGRAPHER: Thank you. You may  
23 swear the witness.

24 TODD KING,  
25 having been duly sworn to tell the truth, the whole 9:43AM

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1 truth, and nothing but the truth testified as follows: 9:43AM

2 DIRECT EXAMINATION

3 BY MR. ELROD:

4 Q Mr. King, where did you graduate from high school?

5 A Algonac High School, Michigan. Algonac. 9:06AM

6 Q Spell that, please.

7 A A-L-G-O-N-A-C.

8 Q What year?

9 A 1981.

10 Q Where did you go to college? 9:06AM

11 A University of Michigan.

12 Q What year did you graduate?

13 A Undergrad, 1985.

14 Q With a degree in what?

15 A Chemical engineering. 9:06AM

16 Q Any graduate degrees?

17 A Master's in environmental engineering, 2000,

18 University of Michigan.

19 Q What did you do between '85 and 2000?

20 A I was employed as an engineer. 9:06AM

21 Q Where? Doing what?

22 A From 1985 to 1990, I worked for a company called

23 McNamee, Porter and Seeley out of Ann Arbor, Michigan.

24 Between 1990 and 1994, I worked for Camp, Dresser and

25 McKee. From 1994 to 1996, I worked for Environmental 9:07AM

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1 pastures of the highest order we've ever had. How in 10:54AM  
2 the world do you gauge an event like that?

3 MR. BLAKEMORE: Object to the form.

4 A I mean, there are extreme events that obviously  
5 may exceed whatever the gauge was calibrated to. I'm 10:54AM  
6 not sure that the numbers I've utilized have been more  
7 on the average daily flow basis. I'm not sure if those  
8 exceedances, those high infrequent events, would impact  
9 substantially the analysis if there are errors there.

10 Q In Paragraph 2.3, you -- 10:55AM

11 A On Page 6?

12 Q Yes, sir.

13 A Okay.

14 Q You appear to limit your analyzes to phosphorus  
15 bacteria total nitrogen, is that true? 10:55AM

16 A For the purposes of trying to quantify the  
17 different remedial measures, I tried to generalize to  
18 these three forms to facilitate the discussions and  
19 presentation.

20 Q There's no discussion in here of heavy metals? 10:56AM

21 A No, sir.

22 Q And why didn't you address the issue of heavy  
23 metals?

24 A That wasn't identified as one of the injuries to  
25 me at the get-go. 10:56AM

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TODD KING, VOL I, 7-22-08

1 Q Okay. And the person or people who would have 10:56AM  
2 identified those injuries to you would include Roger  
3 Olsen, correct?

4 A Yes, sir.

5 Q And who else? 10:56AM

6 A I'm not sure.

7 Q All right. None of those people said to you, hey,  
8 Todd, we're having a heavy metal problem in the  
9 Illinois River Valley, isn't that true?

10 A Not for the purposes of the scope of this 10:56AM  
11 document, no.

12 Q Well, if there's not -- if there were a problem,  
13 you would have addressed it in terms of the remediation  
14 of that problem, isn't that true?

15 A Within the scope of the work, which was pretty 10:56AM  
16 much the previous section.

17 Q And heavy metals were outside the scope of your  
18 work?

19 A Yes, sir.

20 Q And they were outside of the scope of your work 10:57AM  
21 because Roger Olsen and others told you that there's no  
22 reason to consider heavy metals?

23 MR. BLAKEMORE: Object to the form.

24 A I don't know if I would go that far. They're  
25 outside of the scope, yes. Why they're outside of the 10:57AM

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1 scope, I don't know why. 10:57AM

2 Q Arsenic is outside the scope?

3 A Yes, sir.

4 Q Now, in 2.3.2, you talk about bacteria and you

5 state that, "The relevant pathway for bacteria is the 10:57AM

6 precipitation-based transport of bacteria from land

7 when poultry waste has been applied to groundwater."

8 A Yes, sir.

9 Q What about surface water?

10 A Surface water in terms of? 10:58AM

11 Q Bacteria. Why didn't you mention surface water?

12 A Primarily because drinking water supplies that are

13 connected to surface water disinfect, so that pathway

14 is kind of addressed through that.

15 Q So you don't recognize the potential for human 10:58AM

16 health risks from the ingestion of surface water?

17 A That wasn't a focus of this report.

18 Q That was not a focus?

19 A No.

20 Q And it -- if it were a problem. You would have 10:59AM

21 focused on it, true?

22 A Well, again, cessation would address that within a

23 year or so, so --

24 Q Would you tell the court and the jury how the

25 chicken litter is typically applied to the land for 10:59AM

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1 Q So if it's not going to be effective, there's no 11:22AM  
2 reason to discuss it further, correct?  
3 A Yes. These would be screening criteria that we  
4 would apply to eliminate technology.  
5 Q Yes, sir. Because that would be a waste of money? 11:22AM  
6 A Yes, sir.  
7 Q And effort?  
8 A Yes, sir.  
9 Q Have you ever heard of a hormone called Estradiol?  
10 MR. McDANIEL: Estradiol. 11:22AM  
11 Q Estradiol?  
12 A I've heard of it.  
13 Q Huh?  
14 A I've heard of it.  
15 Q Have you heard of it in the context of this 11:22AM  
16 lawsuit?  
17 A Not that comes to mind, no. Perhaps as one of the  
18 things that was investigated, but again --  
19 Q But the --  
20 A -- I vaguely recall. 11:22AM  
21 Q The remediation of Estradiol is not -- you were  
22 not tasked with discussing that issue, were you?  
23 A No, sir.  
24 Q It was not within the scope of your work?  
25 A Correct. 11:23AM

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